

COUNTY OF MILWAUKEE
Inter-Office Communication

Date: February 11, 2002

To: Karen M. Ordinans, Chairman, Milwaukee County Board of Supervisors

From: Jerome J. Heer, Director of Audits

Subject: Compliance Review of Milwaukee Metropolitan Drug Enforcement Group

At the request of the Milwaukee County Sheriff's Department, we have completed a review of the Milwaukee Metropolitan Drug Enforcement Group's (MMDEG) compliance with various requirements of the federal and state funded Anti-Drug Abuse Funding grant that is currently administered by the Sheriff's Department. MMDEG is a coalition of law enforcement agencies that includes the Sheriff's Department, the Milwaukee County District Attorney's Office and municipal police departments (Milwaukee, West Allis, Glendale and South Milwaukee). The primary focus of the MMDEG is on the arrest and prosecution of mid- to upper-level drug traffickers. Our review focused on current procedures, and included a review of financial transactions for 2000 and 2001. Total budgets for these two years were about \$1,477,000 and \$1,448,000, respectively.

Background

The MMDEG is comprised of four components:

- **The police component**, which is involved with the investigation of drug-related crimes. It is headed by a Police Director (currently a Sheriff's Department Captain), and is currently staffed by officers from the Sheriff's Department and the four municipalities noted above, along with investigators from the District Attorney's Office.
- **The prosecution component**, which operates with staff from the Milwaukee County District Attorney's Office and is comprised of attorneys and support staff that are specialists in the prosecution of drug-related crimes. This group is involved with the "Speedy Trial" program and prosecutes all felony drug-related crimes in Milwaukee County.
- **The community relations component**, which consists of two coordinators from the District Attorney's Office who work with community organizations, act as advocates on behalf of victims of drug dealers, establish a court watch program, and promote community anti-drug activities.
- **The Supervisory Commission**, which provides oversight for the MMDEG. The commission meets at least bi-monthly and is comprised of individuals representing the participating organizations. The meetings include:

- A report from the Legal Director (representative from the District Attorney's Office) on the status of prosecutions;
- A report from the Police Director on the status of investigations, including what has been confiscated;
- A report from the Community Drug Prevention Coordinators (from the District Attorney's Office) on the results of its educational efforts;
- A report from the Fiscal Officer (currently from the Sheriff's Department) on the status of budget expenditures;
- Discussion of any new and/or old business.

These reports, tied to specific elements of the MMDEG grant, help the Supervisory Commission in its efforts to provide oversight in helping MMDEG meet the grant's goals.

Financial Review

Funding for the MMDEG comes from a combination of federal, state and local sources, as follows:

| | <u>2000</u> | <u>2001</u> |
|--------------------|--------------------|--------------------|
| Federal Grant | \$1,107,830 | \$1,086,206 |
| State Funding | 221,566 | 217,242 |
| Local Funding | <u>147,712</u> | <u>144,828</u> |
| Total MMDEG Budget | <u>\$1,477,108</u> | <u>\$1,448,276</u> |

In general, state funds provided by the Wisconsin Office of Justice Assistance (WOJA) pay for clerical support provided by the District Attorney's Office and the Milwaukee Police Department (MPD), local funds provided by the municipalities pay the base salaries of the police officers they assign to the unit, and the federal grant pays for all other expenses. The federal grant reimburses the County for the salaries and fringe benefits for three Sheriff's Department positions (captain, sergeant and one deputy), staff from the District Attorney's Office (two investigators, five assistant district attorneys, two community relations specialists and two support staff), overtime costs of the officers from the municipalities, some supplies and a confidential fund used by officers in conducting their undercover investigations.

The majority of MMDEG's costs (94% for 2001) are for salary and fringe benefits. Of that amount, about 45.4% is for staff from the District Attorney's Office. The only compliance requirement for the prosecution segment of the grant is that the work be

performed on drug cases. This includes not only the prosecution of drug cases, but also related investigative work, including obtaining search warrants and subpoenas. Our review of documentation relating to the work performed by the District Attorney's Office staff verified that the costs were incurred for drug-related cases.

The remaining 54.6% of salaries is for officers assigned to the unit from the Sheriff's Department, two investigators, overtime by the officers from the municipalities, and clerk typists provided by the MPD. Reviews of Sheriff's Department time sheets and staff interviews showed its costs were properly supported and verifiable. Reviews of invoices and supporting time sheets from the four municipalities showed that overtime costs of the police officers assigned to the unit also were properly supported.

The remaining salary and fringe benefit costs are for clerk typists assigned to MPD's Vice Control Division. Per the Sheriff's Department staff, actual costs for four budgeted positions totaled \$101,505 in 2000, and \$124,694 for three budgeted positions in 2001. Reviews of MPD records through November 2001 confirmed that the costs for these positions were incurred. However, there appears to be some confusion as to the direct benefit that these positions provide in support of MMDEG's mission. Interviews with several members of the Supervisory Commission and the Police Director of the MMDEG showed each to be unaware of the specific duties that these positions perform and to whom they report.

Discussions with MPD management showed that these individuals do not provide services solely for the benefit of the MMDEG grant. Rather, they provide data entry services for a computer application known as VT-NARCO that is intended to support drug enforcement activity at MPD. Specifically, it is used by MPD officers to track complaints relating to illegal drugs and other vice activity. Interviews with MMDEG officers showed that the data provided by VT-NARCO generally is not used by the unit.

While the information provided by VT-NARCO provides a tool for investigating illegal drug activity, it appears that it almost exclusively benefits MPD's efforts to investigate and arrest drug dealers. In light of limited financial resources available to MMDEG, it may be prudent to consider using the funding for these data entry positions for other activities or positions that directly support MMDEG's efforts in fighting drug trafficking in Milwaukee County.

Decisions on how best to use available funding should be made by the Supervisory Commission with full knowledge of what activities are being funded. Most activities performed by MMDEG staff are reported to the Supervisory Commission in its bi-monthly meetings. However, the activity of MPD's clerical positions are not, nor do these positions report to the Police Director or Legal Director of the MMDEG who are responsible for coordinating drug enforcement efforts within the unit.

We recommend that the Sheriff's Department work with the Supervisory Commission to:

1. *Require MPD to report on the work performed by its funded clerk typists positions. Further, we recommend that the continuation of this activity be evaluated in light of "the big picture" needs of the MMDEG. If it is decided that the funding could be better spent on other more pressing needs, take the proper steps to amend the current and future grant applications to reflect the changes in priorities.*

Controls Over Confidential ('Street') Funds

About \$56,900 in 2001 and \$64,000 in 2000 was budgeted for confidential funds, or 'street funds' as they are commonly called. Street funds are provided to officers who are working undercover for the purpose of purchasing evidence, information, or services. Our review of the procedures used to document and account for these funds showed them to be adequate, having a series of checks and balances to help ensure funds are used for investigative-related expenses. The expenditure of these funds is also reported to the Supervisory Commission as part of the bi-monthly financial report.

Officers keep logs documenting how much they have received, the details of individual expenditures of the street funds, and their outstanding balance, similar to a check register. When the officer needs to replenish his street fund, the request is given to the sergeant for approval. The sergeant also periodically reviews the officers' street fund logs to ensure the funds are accounted for. Under these procedures, the street funds are never completely returned by the officer to the sergeant. Rather, officers have a permanent advance fund, without a specific time to turn in their remaining outstanding funds.

These procedures, however, do not comply with the requirements set forth by the Wisconsin Office of Justice Assistance (WOJA), that require street funds be returned generally within 48 hours of receipt. According to the Accounting and Control Procedures section of the guidelines on the use of confidential funds issued by WOJA:

“For security purposes, there should be a 48-hour limit on the amount of time funds advanced for (purchase of evidence/purchase of specific information/purchase of services) expenditures may be held outstanding. If it becomes apparent at any point within the 48-hour period that the expenditure will not materialize, then the funds should be returned to the advancing cashier as soon as possible. An extension to the 48-hour limit may be granted by the level of management that approved the advance. Factors to consider in granting such an extension are the amount of funds involved, the degree of security under which the funds are being held, how long an extension is required, and the significance of the expenditure. Such extensions should be limited to 48 hours. Beyond this, the funds should be returned and readvanced, if necessary. Regardless of circumstances, within 48 hours of the advance, the fund cashier should be presented with either the unexpended [sic] funds, and executed voucher for payment for information or purchase of evidence or written notification by management that an extension has been granted.”

The MMDEG Police Director believes that their procedures provide adequate security over the street funds, and that following the WOJA requirements to the letter would only require additional paperwork without providing a significant benefit. Further, since the guidelines use the word “should,” the Police Director believes that this is only a suggestion and not a mandatory requirement. Contacts with other local police departments with drug units showed they basically follow the same procedures followed by MMDEG. A representative of WOJA verbally informed us that the 48-hour requirement was for accounting for the funds, and that approval by the Supervisory Commission of the procedures currently being followed would show compliance with the intent of the requirement, if not necessarily the letter of the requirement.

A review of the street funds transactions of two officers over a 3½ month period in 2001 can help show the inefficiency that would be involved by following the letter of the regulations. These two officers had an average of about 7.4 transactions per month. If the actual regulations had been followed, each of these instances would have involved the officer first making a request of the funds and filling out paperwork, getting the request approved, obtaining the funds from the bank, documenting the serial numbers of the funds obtained, then returning to the office within 48 hours to make a final accounting of the purchase and to turn in any leftover funds. The vast majority of these purchases were below \$50. Given the small amounts involved in most cases and frequency of the transactions, we believe the benefit of additional security obtained by returning the unused funds within 48 hours of every transaction would not justify the lost productivity that would be incurred by the paper-pushing exercise. Thus, we concur with the procedures as currently followed by MMDEG.

We therefore recommend that the Sheriff's Department work with the Supervisory Commission to:

2. *Officially approve the current procedures in place for handling confidential funds or any alternative procedures that maintain efficiency and provide for adequate security over the funds.*

Confidential Informant Code Book/Confidential Files

WOJA rules require that law enforcement agencies such as MMDEG maintain confidential files on informants who have cooperated with the agency during investigations. Along with the confidential files, WOJA rules also require that a Confidential Informant Code Book be maintained. The code book is to contain specific bits of information, such as the informant's code name and real name, when the file was created, and when it was deactivated (if applicable).

We reviewed the confidential informant code book to check for completeness of the required data. We found that it did not contain the type of informant. The different types on informants includes an informant (someone who is paid for information, services or evidence), a defendant informant (someone who is arrested and attempts to avoid prosecution or reduce the severity of the charges in exchange for information or evidence), or a restricted-use informant (includes a variety of different types of individuals who provide information on a one-time basis but generally are not paid, such as a concerned citizen). The importance of this designation is that it helps users of the informant code book assess the relative reliability of the information provided.

We also used the code book to select six confidential files to review for completeness and consistency with information contained in the code book. In this sample we found one instance in which an informant should not have been listed. In this case, a person agreed to become an informant, but backed out of the agreement before a confidential file was created. Thus, in that instance we found no confidential file to review for completeness.

We recommend that the Sheriff's Department work with the Supervisory Commission to require MMDEG to:

3. *Update the Confidential Informant Code Book to include the type of informant as required by WOJA guidelines.*

WOJA rules also describe what information should be present in every confidential file, such as a record of all payments to the informant, a photo of the informant, and a fingerprint card. Our reviews of five confidential files found that most of the required information was present except that four of five files contained only a thumb print rather than complete fingerprint cards. The significance of the fingerprinting is to accurately identify the informant, as appearance over time can markedly change. Also, turnover of MMDEG staff can also lead to unfamiliarity with prior informants, thus necessitating the need for a permanent method of identification. The MMDEG Police Director commented that current fingerprinting technology has improved to the point where the thumbprint was sufficient to confirm identity.

We recommend that the Sheriff's Department work with the Supervisory Commission to require MMDEG to:

4. *As expeditiously as possible, update confidential files to include full fingerprints of informants. In lieu of following this requirement, formally request that WOJA to change the requirement of full fingerprinting to just thumb-printing informants.*

WOJA rules also state that sign out logs should be kept indicating the date that a confidential file is removed from secure files, the informant number, time in and out, and the signature of the person reviewing the file. This procedure was not used for the five files we reviewed.

We recommend that the Sheriff's Department work with the Supervisory Commission to require MMDEG to:

5. *Improve security over access to the confidential informant files by implementing a sign in/out process to include information noted by WOJA.*

Controls Over 'Flash Money'

MMDEG maintains \$30,000 cash which is used as 'flash money.' This cash are funds used to show drug dealers the financial ability of an undercover officer to make larger purchase of drugs. [The funds are not given to the drug dealers, just shown.] These funds are not provided by the MMDEG grant funding, but rather by MMDEG's forfeiture fund. The forfeiture fund consists of assets that have been distributed to law enforcement agencies that have participated in the investigation of certain crimes, including drug-related crimes. These are assets that had been seized because they

had been used in the commission of the crimes, or had been acquired with crime-related money.

We looked at the controls over these funds because of the potential for abuse. The status of these funds is reported by the MMDEG to the Supervisory Commission. We found that the funds were generally accounted for and adequately safeguarded. However, no log was maintained documenting the use of these funds (when used, withdrawn by whom, purpose of use, date, etc.). An up-to-date log would account for the funds when in use, and could be used to justify the continued need of such a fund.

We recommend that the Sheriff's Department work with the Supervisory Commission to require MMDEG to:

6. *Establish a log containing dates, amounts, purpose, responsible officer, and return information to document the use and physical location of the flash money.*

We would like to thank the Sheriff's Department, the District Attorney's Office, and each of the four participating municipal police departments for the courtesy and cooperation extended during this review. A response by the Sheriff's Department is attached. Please refer this memo to the Committee on Finance and Audit. We also plan to discuss this memo with the MMDEG's Supervisory Commission at its next scheduled meeting. After that meeting, it is expected that the Sheriff's Department in conjunction with the Supervisory Commission will prepare a response to this memo, which will be forwarded to the Committee on Finance and Audit.



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